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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/935,596	08/24/2001	Masaki Hayashi	110440	3635
25944	7590	10/05/2004		
OLIFF & BERRIDGE, PLC P.O. BOX 19928 ALEXANDRIA, VA 22320				
			EXAMINER MISLEH, JUSTIN P	
			ART UNIT 2612	PAPER NUMBER 8

DATE MAILED: 10/05/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/935,596

Applicant(s)

HAYASHI, MASAKI

Examiner

Justin P Misleh

Art Unit

2612

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 - 14 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 9 - 12 is/are allowed.
- 6) ☒ Claim(s) 1 - 8 and 13 - 16 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 November 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Specification

1. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. **The form and legal phraseology often used in patent claims, such as “means”, “said”, and “comprising”, should be avoided.** The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

2. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

Information Disclosure Statement

3. The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609 A(1) states, “the list may not be

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incorporated into the specification but must be submitted in a separate paper.” Therefore, unless the Examiner, on form PTO-892, has cited the references, they have not been considered.

More specifically, pages 1 (lines 21 – 25) and 2 (lines 1 – 3) of the specification describes the relevance of two Japanese Unexamined Patent Application Publications; however, no corresponding information disclosure statement has been filed.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. **Claims 1 – 8 and 13 – 16** are rejected under 35 U.S.C. 102(b) as being anticipated by Ogino.

6. For **Claims 1 and 2**, Ogino discloses, as shown in figures 5 and 6 and as stated in columns 8 (lines 1 – 67) and 9 (lines 1 – 59), a data recorder comprising:

a recording unit (7) for recording data on a removable recording medium (detachable external storage device or devices 11a);

a condition determining unit (system controller 9) for determining a right condition (See column 8, lines 24 – 35; a right photographing mode is determined from among: S58 ultra-high speed, S59 high speed, S60 medium speed, and S61 low speed.) for performing a recording operation with said recording unit (7) according to a recording test/information acquisition (The

test/acquisition determines the kind of external storage device S51; see column 8, lines 1 – 4.)
performed on said recording medium (11a); and

an optimizing unit (system controller 9) for optimizing the recording operation (by adjusting the “continuous photographing speed”) of said recording unit (7) according to said right condition (determined photographing mode) determined by said condition determining unit (9).

According to Ogino, an optimum continuous photographing speed is selected in accordance with the kind of external storage device (11a).

7. As for **Claims 3 and 4**, Ogino discloses an optimum continuous photographing speed is selected in accordance with the kind of external storage device (11a). More specifically, Ogino states in column 9 (lines 6 – 15), the storage speed (also known as the continuous photographing speed) of image data to internal memory (6) is set based upon the determination the system controller (9). Thus, Ogino prevents the internal memory (6) from overflowing; hence, optimizing the capacity of the internal memory (6). Therefore, in regards to claim language, Ogino discloses said recording unit (7) includes a recording buffer (internal memory 6) for temporarily storing data yet to be output to said recording medium (11a); and said optimizing unit (9) optimizes the capacity of said recording buffer according to said right condition.

8. As for **Claims 5 – 8**, Ogino discloses, as shown in figure 5, an electronic camera comprising: the data recorder (in parent claims 1 – 4, respectively) and a shooting unit (3) for shooting a subject image to generate image data, wherein said data recorder records image data generated by said shooting unit (see column 4, lines 1 – 12).

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9. As for **Claims 13 – 16**, Ogino discloses, as shown in figure 5 and as stated in columns 8 (lines 1 – 67) and 9 (lines 1 – 59), that system controller (9) is responsible for controlling the data recorder of parent Claims 1 and 2. System controller (9) operates as the claimed conditioning unit and the claimed optimizing unit, while controlling the claimed recording unit (7) to record image data on the removable storage medium (11a). Ogino discloses, that the data recorder of figure 5 is a digital system; thus, system controller (9), in order to function in a digital system, must operate according to a machine-readable recording medium that contains a program for operating the data recorder according to the flowchart of figure 6. Although, it is not specifically disclosed, for reasons stated above, a machine-readable recording medium containing a program for operating the system controller (9) is inherent to Ogino.

Allowable Subject Matter

10. **Claims 9 – 12** are allowed.

11. The following is a statement of reasons for the indication of allowable subject matter:

As for **Claims 9 and 10**, while Ogino (closest prior art) discloses a recording buffer (internal memory 6) with a predetermined capacity for storing image data prior to transferring the image data to a removable storage medium (11a), under the control of a system controller (9) which determines characteristics of the removable storage medium (11a) and optimizes the capacity of the recording buffer (6) by controlling an input write speed to the buffer and an output transfer speed to the storage medium; the closest prior art does not teach or fairly suggest an electronic camera comprising a shooting unit for shooting a subject image to generate image data; a continuous shooting memory for temporarily storing said image data yet to be completed

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of processing; and the data recorder comprising a recording unit, condition determining unit, and optimizing unit for recording image data generated by said shooting unit, and wherein said optimizing unit included in the data recorder optimizes the capacity of said recording buffer by allocating an area of said continuous shooting memory to said recording buffer according to said right condition.

As for **Claims 11 and 12**, while Ogino (closest prior art) discloses a recording buffer (internal memory 6) with a predetermined capacity for storing image data prior to transferring the image data to a removable storage medium (11a), under the control of a system controller (9) which determines characteristics of the removable storage medium (11a) and optimizes the capacity of the recording buffer (6) by controlling an input write speed to the buffer and an output transfer speed to the storage medium; the closest prior art does not teach or fairly suggest an electronic camera comprising: a shooting unit for shooting a subject image to generate image data; a display memory for storing said image data for displaying purpose; and the data recorder comprising a recording unit, condition determining unit, and optimizing unit for recording image data generated by said shooting unit, and wherein said optimizing unit included in the data recorder optimizes the capacity of said recording buffer by allocating an area of said display memory to said recording buffer according to said right condition.

Conclusion

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following is a brief description of each of the prior art not used in the rejections above, as labeled on attached form PTO-892.

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o **Prior Art B** discloses, in the very least, a processing unit that executes a memory manager routine, which selectively allocates storage locations within a DRAM, depending on the requirements of the system and the current image data.


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Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Justin P Misleh whose telephone number is 703.305.8090. The Examiner can normally be reached on Monday through Thursday from 7:30 AM to 5:30 PM and on alternating Fridays from 7:30 AM to 4:30 PM.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Wendy R Garber can be reached on 703.305.4929. The fax phone number for the organization where this application or proceeding is assigned is 703.872.9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JPM
October 1, 2004


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